

**TOWNSHIP OF BERKELEY
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING AGENDA
NOVEMBER 14, 2012
6:30 PM PUBLIC HEARING**

- A. SALUTE TO THE FLAG
- B. ROLL CALL, DECLARATION OF QUORUM
- C. SUNSHINE ACT STATEMENT: This meeting was advertised in the Asbury Park Press, posted on the Township's bulletin board as required by the "Open Public Meeting Act".
- D. Please be advised that there is to be **NO SMOKING** in this building in accordance with New Jersey Legislation.
- E. OLD/NEW BUSINESS:

F. AGENDA

1. **Matthew Mazza** **BOA # 12-5406**
- | | |
|-----------------------------|-------------------------------------|
| Variance requested | Front Yard Setback on Paper St. |
| Project | Addition of a new living space area |
| Block 596 | Lots 45 thru 50 |
| Address: 371 Veterans Blvd. | Zone: R-150 |

Denial reads: "Applicant proposes to construct a 36 ft. x 18 ft. living space addition 23.5 ft. from the front property line where 35 ft. is required".

**** Applicant requests to be carried to Dec. 12, 2012, as the newspaper did not publish the notice in time for the November 14, 2012 meeting.**

2. **David Roman** **BOA #**
- | | |
|----------------------|---|
| Variance requested | Use & Bulk variances |
| Project | Construction of Multifamily residential units |
| Block: 956 | Lot 4 |
| Address: 730 Route 9 | Zones: HB – R-125 |

Denial reads: "Applicant proposes to construct attached multi-family residential units that are located in both the HB & R125 zones. Multi-family dwellings are not allowed in the R-125 zone and are a conditional use in the HB zone. The unit will not meet item 6.a of the conditional uses.

3. **Sciara (Bayside Builders)** **BOA # 12-5407**
- | | |
|---------------------------|-------------------------------|
| Variance requested | Rear setback Bulk Variance |
| Project: | Construct a 572 s.f. addition |
| Block: 1561 | Lot: 16 |
| Address: 234 Teakwood Dr. | |

Denial reads: "Applicant proposes to construct a 572 s.f. addition that will leave a 15.74 ft. setback where 20 ft. is required."

- G. RESOLUTIONS –
- I. VOUCHERS
- H. ADJOURNMENT



Ernst, Ernst Lissenden

A New Jersey Corporation

Certificate of Authorization 24GA27927500
Consulting Engineers, Planners & Surveyors
52 Hyers Street, P.O. Box 391 • Toms River, NJ 08754
Telephone: 732-349-2215 • Fax: 732-349-4127
Website: www.eelengr.com

PRINCIPALS

John A. Ernst, Jr., (1909-1987)
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John N. Ernst, P.E., C.M.E., P.P.

Carl P. Werner, L.S., P.P.
Harold Mathis, Jr., L.S., P.P.

October 4, 2012

Melissa Kazmac, Board Secretary
Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
P.O. Box B
Bayville, NJ 08721

Re: **BOA #12-5406**
Applicant: Matthew Mazza
Application: Front Yard Setback on Paper Street
Block 596, Lots 45 thru 50
Fronting on Veterans Boulevard
Zone: R-150
EE & L Project No. 12B4533-7M06

Dear Ms. Kazmac:

In accordance with your request, our office has reviewed the following variance application submitted for the above referenced property. The following comments are offered with regard to same:

The denial letter issued July 9, 2012 by the Zoning Official states that "the applicant proposes to construct a 36 ft. x 18 ft. living space addition 23.5 ft. from the front property line where 35 ft. is required".

A. Completeness

1. Based upon our review, we recommend that this **application be deemed complete** subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **November 14, 2012** meeting agenda.
2. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.
3. The applicant has submitted the following information for review:
 - A plan entitled "Map of Survey Showing Proposed Addition, Tax Lots 45 thru 50, Block 596, Berkeley Township, Ocean County, New Jersey", dated August 11, 2012, prepared by Gravatt Consulting Group.
 - Preliminary Architectural Plans.
 - A 200 ft. Radius Map and certified list of property owners.
 - An application checklist.
 - Photographs of the existing house.

B. General Comments

The property is located on the southwest corner of Veterans Boulevard and Jackson Avenue. The property lies within the R-150 zone and comprises an area of 15,000 s.f. The property has been developed with a one-story frame dwelling, wood shed, an above ground pool, a fenced in rear yard and a concrete driveway.

Re: BOA #12-5406
Applicant: Matthew Mazza
Application: Front Yard Setback on Paper Street
Block 596, Lots 45 thru 50
Fronting on Veterans Boulevard
Zone: R-150
EE & L Project No. 12B4533-7M06



The site lies within Flood Zone 'X' (unshaded), which is an area determined to be outside the 0.2% annual chance flood plain.

The applicant proposes to construct a 36 ft. x 18 ft. living space addition to the east end of the existing dwelling unit adjacent to Jackson Avenue which is a paper street leaving a front yard setback of 23.7 ft.

C. Variances Requested and Items of Discussion

1. A variance is required for insufficient front yard setback; whereas 35 ft. minimum is required and 23.7 ft. is proposed from the new addition. It should be noted that the proposed setback is from a paper street with a 45 ft. wide right-of-way.
2. The applicant must provide testimony and proofs supporting the granting of the variance.
3. How many bedrooms are in the existing house and what will the addition be used for?
4. If the addition is used for bedrooms will parking be adequate to comply with R.S.I.S.? If there are four or more bedrooms a *de minimus* exception will be required.

D. Conditions and Recommendations

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant shall obtain any and all agency approvals, including but not limited to, CAFRA, NJDEP, Building Department, Fire Department, Health Department, and Engineering Departments, etc., if required.
2. The Applicant certifying that the proposed building addition will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, or other party involved, if any.
3. The Applicant shall submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant shall provide all required plans necessary to show compliance with all required Building Codes and Ordinances, to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

A handwritten signature in black ink, appearing to read 'John J. Mallon'. The signature is fluid and cursive, with the first name 'John' being particularly prominent.

John J. Mallon, PE
Zoning Board Engineer

JJM/jet

- cc Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
Matthew Mazza, Applicant
Gravatt Consulting Group, Applicant's Engineer
File



http://www.bing.com/maps/FORM-29LH2JrE9LjM3MSUy7hZddWYw52J1Jm91bGvYKXJ1JmF5dmh5bGlfmJualU3ZkNkdC4wJTdlGdm5ZiYp2o5f4OtlWmD...



Live Search



Sign in 0 of 5

371 Veterans Blvd, Bayville, NJ 08121 - Bing Maps

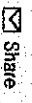
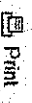
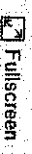
WEB IMAGES VIDEOS MAPS ELECTION MORE

bing 371 veterans boulevard bayville nj



Sign in 0 of 5

Road



371 Veterans Blvd, Bayville, NJ 08121 - Bing Maps



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Remington & Vernick Engineers
232 Kings Highway East
Haddonfield, NJ 08033
(856) 795-9595
(856) 795-1882 (fax)

**Remington, Vernick
& Vena Engineers**
9 Allen Street
Toms River, NJ 08753
(732) 286-9220
(732) 505-8416 (fax)

3 Jocana Boulevard, Suite 300-400
Old Bridge, NJ 08857
(732) 955-8000
(732) 591-2815 (fax)

**Remington, Vernick
& Walberg Engineers**
845 North Main Street
Pleasantville, NJ 08232
(609) 645-7110
(609) 645-7076 (fax)

4907 New Jersey Avenue
Wildwood City, NJ 08260
(609) 522-5150
(609) 522-5313 (fax)

**Remington, Vernick
& Beach Engineers**
922 Fayette Street
Conshohocken, PA 19428
(610) 940-1050
(610) 940-1161 (fax)

5010 East Trindle Road, Suite 203
Mechanicsburg, PA 17050
(717) 766-1775
(717) 766-0232 (fax)

U.S. Steel Tower
600 Grant Street, Suite 1251
Pittsburgh, PA 15219
(412) 263-2200
(412) 263-2210 (fax)

Univ. Office Plaza, Bellevue Building
262 Chapman Road, Suite 105
Newark, DE 19702
(302) 266-0212
(302) 266-6208 (fax)

**Remington, Vernick
& Arango Engineers**
The Presidential Center
Lincoln Building, Suite 600
101 Route 130
Cinnaminson, NJ 08077
(856) 303-1245
(856) 303-1249 (fax)

300 Penhorn Avenue, 3rd Floor
Secaucus, NJ 07094
(201) 624-2137
(201) 624-2136 (fax)

MEMO: Berkeley Township Zoning Board of Adjustment

FROM: Anna Wainright, P.P., A.I.C.P. *AW*
Zoning Board Planner

DATE: October 16, 2012

RE: Mazza, Matthew
PLANNING REVIEW-#1
Application: Addition
Block 596 - Lots 45-50
Address: 371 Veterans Blvd
Zoning District: R-150 Residential Zone
Plan Title: Map of Survey Showing Proposed Addition
Prepared by: John P. Augustine, P.L.S., dated 9-8-04, revised 8/11/12
BOA#: 12-5406
Our File: 1506-Z-144

As requested, our office has reviewed the above named variance application and offer the following comments and recommendations:

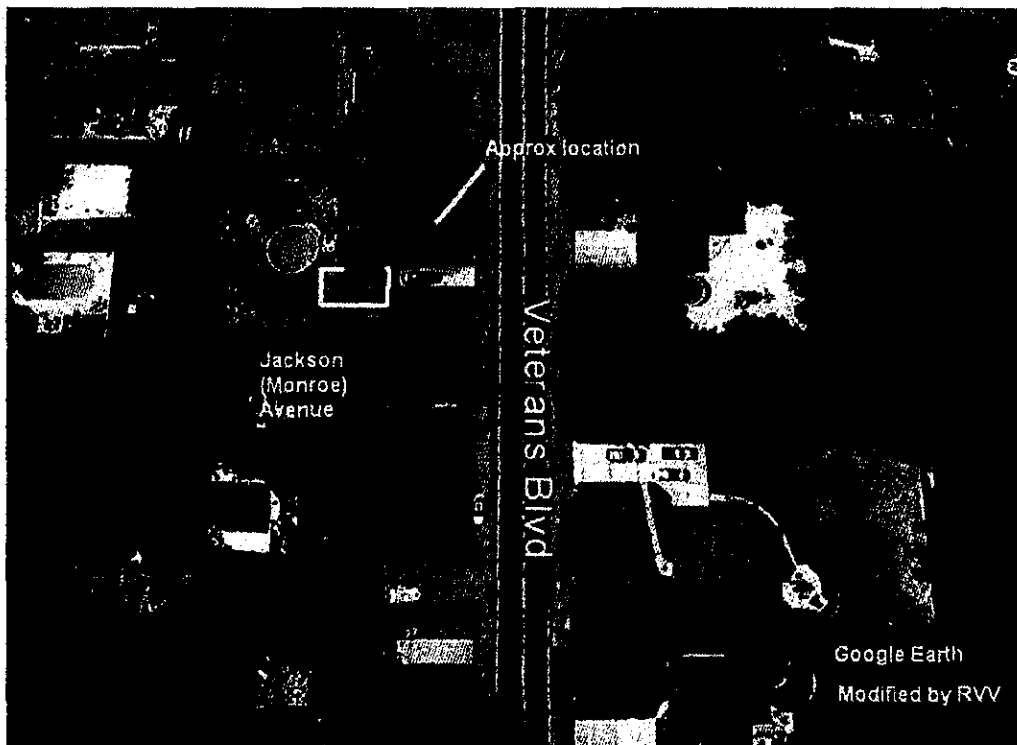
Zoning Requirements:

R-150 Residential Zone \$36.96.2 & \$35-95

<u>Principal Bldg</u>	<u>Required</u>	<u>Existing</u>	<u>Proposed</u>	<u>Variance Required</u>
Minimum Lot Area	15,000 SF	3,150 SF	3,150 SF	None
Minimum Lot Frontage	100 FT	100/150 FT	100/150 FT	None
Front Yard Setback	35 FT	48 FT	23.7 FT	Variance Required
Rear Yard Setback Structure	30 FT	78 FT±	68.1 FT	None
Side Yard Setback	10 FT	12.3 FT	12.3 FT	None
Side Yard Combined	25 FT	N/A	N/A	None
Maximum Height	35 FT	< 35 FT	< 35 FT	None
Maximum Lot Coverage	25%	-	17/1%	None

A. PROJECT OVERVIEW

The existing 1 story single family dwelling is located on Veterans Boulevard and Jackson Avenue (AKA Monroe) between Elizabeth and Brick Avenues. Jackson Avenue is presently unimproved and wooded. The Applicant is required to meet the minimum front yard setback from both streets. The proposed one story 18' X 36' addition is located on the east side of the home, 23.7 feet from Jackson Street, whereas 35 feet is required. Therefore, the Applicant requires a variance for the setback from Jackson Street. The plans appear to indicate the construction of two new bedrooms and a bathroom. Testimony should be provided to the Board describing the proposed addition and the interior use of the space.



Aerial map for neighborhood comparison. Copied from Google earth and modified by RVV.

GENERAL REVIEW COMMENTS

1. Pursuant to the MLUL Section 40:55D-70, the Board of Adjustment may grant a bulk variance request if:
 - c.(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.

The Board must determine that either the property in question meets any or all of the conditions established above, and/or that the strict adherence to the standards of the Berkeley Township Land Development Ordinance would cause undue hardship to the property owner. The Board must also be satisfied that the granting of the variance will not cause any detriment to the public good, or the Zoning Plan (Master Plan).

C. RECOMMENDATIONS

1. The Applicant must provide a certification from all owners of the property, certifying agreement with the proposal. Property owners are listed as Matthew and Mollie R. Mazza.
2. The Applicant should be prepared to describe to the Board the reasons for the addition and the reasons for their "hardship" as described above.
3. The Applicant should be prepared to describe and provide photos of the existing neighborhood, and conditions in existing front and rear yards in a comparison to the proposed addition.
4. The Applicant is proposing a new addition which appears to increase the bedroom and bathrooms on this property. The Applicant should be prepared to provide testimony regarding the overall increase in size and its purpose.
5. Testimony should be provided regarding the capacity of the existing septic and the affects, if any, of the expansion.

D. CONDITIONS

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The Applicant certifying that the proposed addition will not encroach into existing easements (i.e., shade tree, utility, drainage, etc.) without proper consent from the Township, and/or appropriate other involved party.
2. The Applicant should provide testimony regarding mitigation measures proposed to ensure that the new addition does not create any drainage or stormwater runoff onto adjacent properties. If the Applicant is changing any of the grading on the property, a grading permit approved by the Township Engineer may be required.
3. The Applicant is to submit payment of any and all outstanding professional review fees of the Board and the Township.
4. The Applicant must provide all required plans necessary to show compliance with all required Building Codes to the Building Department at the time of the permit application.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Berkeley Zoning Board
Our File: 1506-Z-144

Page 4

Should you have any questions or we can be of any further assistance on this matter, please don't hesitate to call our office at 732-286-9220.

God Bless America

REMINGTON, VERNICK & VENA ENGINEERS

ARW/ktr

cc: J. Mallon, P.E. – Board Engineer
A. Pavliv, Esq. – Board Attorney
Matthew Mazza – Applicant



Ernst, Ernst Lissenden

A New Jersey Corporation

Certificate of Authorization 24GA27927500
Consulting Engineers, Planners & Surveyors
52 Hyers Street, P.O. Box 391 • Toms River, NJ 08754
Telephone: 732-349-2215 • Fax: 732-349-4127
Website: www.eelengr.com

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Carl P. Werner, L.S., P.P.
Harold Mathis, Jr., L.S., P.P.

November 7, 2012

Berkeley Township Zoning Board of Adjustment
Pinewald-Keswick Road
P.O. Box B
Bayville, NJ 08721

Attn: Melissa Kazmac, Board Secretary

Re: **BOA # 12-5416**
Applicant: David Roman
Application: Use and Bulk Variances
Block 956, Lot 4
Fronting on: NJSH Route 9
Zone: HB & R-125
EE & L Project No. 12B4533-7R04

Dear Ms. Kazmac:

Our office has reviewed the following variances application submitted for the above referenced property for completeness. The following comments are offered with regard to same:

The denial letter issued September 27, 2012 by the Zoning Official states that "the applicant proposes to construct attached multi-family residential units on lots that are located in both the HB and R-125 Zones. Multi-family dwellings are not allowed in the R-125 zone and are a conditional use in the HB Zone. The units will not meet Item 6.a. of the Conditional Uses".

A. Completeness

1. The applicant has submitted the following information:

- A plan entitled "User Variance Plans for "Riverbay Landings", Block 956-Lot4, Township of Berkeley, Ocean County, New Jersey", consisting of two sheets, dated September 20, 2012, prepared by Professional Design Services, LLC.
- A plan entitled "Boundary & Topographic Survey of Tax Lot 4 – Tax Block 956, (reference Tax Map Sheet No. 13), Township of Berkeley, Ocean County, New Jersey", dated August 30, 2012, prepared by Professional Design Surveying, Inc.
- Architectural plans entitled "Proposed Construction for: Roman Construction, Block 956, Lot 4, Berkeley Township, New Jersey", consisting of three sheets, prepared by Dario Architecture/Design.
- A 200 ft. radius map and certified list of property owners.
- A Traffic Impact Analysis prepared by McDonough & Rea Associates, Inc, dated October 25, 2012.
- An application and application checklist.

2. Based upon our review, we recommend that this application be **deemed complete** subject to the Applicant complying with all applicable notification requirements as set forth in the Berkeley Township Land Use Ordinance and the Municipal Land Use Law. As such, this application is being placed on the Berkeley Zoning Board of Adjustment's **November 14, 2012** meeting agenda.



3. Notice to property owners and the newspaper (published) must be provided no later than 10 days prior to the meeting date and all proofs of service must be in the Municipal Planning and Zoning office no later than 5 days prior to the meeting. Should you have any questions with regard to noticing requirements, contact the Board office at 732-244-7400.

I have reviewed the submitted information and offer the following comments:

B. General Comments

The property is located on the west side of New Jersey State Highway Route 9, approximately 520 feet south of Bay Boulevard projected. Approximately 98% or 10.58 acres of the site lies within the R-125 Zone while the remaining 2% or 0.19 acres lies within the HB Zone. The site contains a 1½ story framed dwelling with a gravel driveway and a second 1 story framed dwelling. Both dwelling units front on Route 9 at different locations and are separated by existing Lot 5 (110 ft. ±). The 1 story dwelling has 43 ft. of frontage on Route 9 and is in the HB Zone, while the 1½ story dwelling has approximately 148 ft. of frontage on route 9 and is in the R-125 Zone. There are several encroachments from adjacent property owners (Lots 6, 9 & 11) consisting of planters, a timber playset, fences and a gravel driveway along the north boundary back to adjacent Lots 14 and 15. Most of the gravel driveway is within an easement. The majority of the 10.78 acre site appears to be densely forested.

The site lies within Flood Zone "X" (unshaded) which is an area determined to be outside the 0.2% annual chance floodplain. In accordance with the Soil Survey of Ocean County most of the area of development is situated on Downer series soils which are deep well drained soils with the seasonal high water table expected to be greater than 6 ft. from the surface of the ground. A very small sliver along the northwestern boundary is situated on Lakehurst series soils which are moderately well drained or somewhat poorly drained soils in depressed areas with the seasonal high water table expected to be 1.5 ft. to 3.5 ft. below the surface of the ground. Freshwater wetlands do not appear to be present on the site. However wetlands associated with Potter Creek located by an NJDEP aerial on the plan are situated 210 ft. (scaled) from the northwestern boundary of this site.

The applicant proposes to construct ten (10), two (2) story, eight (8) unit age restricted garden apartments with parking (169 spaces proposed), drainage and stormwater management facilities. The project will be serviced by public water and sewers. All of the above is situated in the R-125 Zone. The applicant also proposes to subdivide off a narrow strip of land containing the one story frame dwelling with 43 ft. of frontage on Route 9 which is situated in the HB Zone and will require Bulk Variances.

C. Variances/Waivers

I. The applicant has applied for a use variance only which requires the following:

1. A use "d" variance is required for the construction of 10 multi-family garden apartment buildings containing 8 units each as a multi-family use is not permitted in the R-125 Zone.
2. A use "d" variance will be required if the existing one story frame dwelling unit on proposed Lot 4.02 is used as a dwelling unit as a single family residential use is not permitted in the HB Zone.

II. The plans indicate a subdivision which would require the following variances and waivers:

1. Proposed Lot 4.02 requires a "c" variance for insufficient lot area; whereas 15,000 s.f. minimum is required and 8,499 s.f. is proposed.
2. Proposed Lot 4.02 requires a "c" variance for insufficient lot frontage; whereas 150 ft. minimum is required and 43.38 ft. is existing and proposed.
3. The following waivers are required:
 - a. Checklist L.D. 8, Item No. 17 requires photographs of the site and none have been provided.
 - b. Checklist L.D. 8, Item No. 18 requires the location of all existing structures within 200 ft. of the site to be shown on the plan.
 - c. A waiver from providing curbing along all property frontages on Route 9 is required as Section 35-53.3 requires curb along all edge of paved surfaces.
 - d. A waiver from providing sidewalks along property frontages along Route 9 is required.
 - e. Section 35-63.1.d indicates in parking lots greater than 100 spaces no parking is permitted along the main access drive; whereas 89 spaces are along what technically is the main access drive.



4. General Note 8 indicates that the intention of the plan is to conform to the R-MF Multi-Family Zone. The following are non-compliances from the R-MF Multi-Family Zone:
 - a. Section 35-96.4.a.2(b) requires two (2) entrance – exit roads form garden apartment projects; whereas one (1) entrance – exit drive is provided.
 - b. Section 35-96.4.a.2(g) requires refuse enclosures to be located away from the fronts of buildings; whereas all but two (2) are located in parking areas which are in the front of the buildings.
 - c. Section 35-96.4.a.2(h) requires in addition to any storage within dwelling units, two hundred (200) cubic feet of storage area for each dwelling unit be provided in a convenient, centrally located area **within the building**; whereas none are provided. It should be noted that there is a separate 3,000 s.f. storage building in the western portion of the site. However it is not noted if this is for storage of maintenance equipment for the site or for the residence. In any event it is not centrally located.
 - d. Section 35-96.4.a.(i) indicates that structure walls or parallel walls of adjacent structures shall not continue in the same plane for more than 75 ft. without an offset of at least four (4) ft.: whereas all of the proposed buildings are 84 ft. in length with the front wall is in the same plane.
 - e. Section 35-96.4.a.2(j) requires each multi-family development to provide a recreational area of 1,000 s.f. for each twelve (12) units; whereas none is provided.
5. The applicant should provide professional testimony to the Board regarding the “special reasons” as prescribed in the Municipal Land Use Law for granting of “d” variances. These may include reasons such as the lot being particularly well suited to the use proposed, and that the changes will advance the purposes of the Municipal Land Use Law as described in 40:55D-2 Purpose of the Act. The burden of proof is on the applicant and the proofs required for the granting of a “d” variance carry a higher degree of satisfaction and also require an affirmative vote from five (5) of the voting members of the Board. The Board Planner will provide detailed review of the proofs for “d” variances.
6. The Board must also determine if all of the “c” variances can and should be granted or consider these at Site Plan and Subdivision.
 - c(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structure lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties, to, or exceptional and undue hardship upon, the developer of such property.
 - c(2) where in an application or appeal relating to a specific piece of property the purpose of this act would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment.
7. The Board must also be satisfied that the variances can be granted without substantial detriment to the public good and/or neighborhood or the Municipal Zoning Ordinance and/or Township Master Plan.

D Items if Discussion

1. Testimony regarding traffic impacts should be provided. (See review of Traffic Impact Analysis).
2. Testimony as to the net density (driveways and parking areas not included) of the project should be provided.
3. In as much as the vast majority of the site appears to be densely wooded the Board should determine if an Environmental Impact Statement should be provided for this application.
4. Who will ultimately own and maintain the property?
5. How will mail be delivered? Will there be a central mail box area?
6. Are the ponds infiltration basins on infiltration/detention basins?
7. Testimony should be provided as to the suitability of the soils to support the proposed basins?
8. What will the age be restricted to in this development?
9. Will grassed and landscaped areas be irrigated?



10. How will refuse pick up and disposal be handled?
11. Where will snow be stock piled during snow removal operations?
12. Who will maintain the project site including snow removal?
13. The number of proposed parking spaces exceeds the requirements of R.S.I.S.; whereas 156 spaces minimum is required and 169 spaces are provided.
14. Is the density of the vegetation thick enough to provide a buffer to the residential dwelling units on the adjacent subdivision to the south?
15. What type of construction (slab on grade, crawl, basement) will be utilized for onsite buildings?
16. The Board should determine if the off-site wetlands line which has been located by an N.J.D.E.P. aerial should be more definitively located.
17. Do sewer and water have the capacity for the use?
18. If the use on Lot 4.02 is not conforming perhaps this structure should be removed also.

E. Plan Review

1. Sheet 1 should be amended as follows:
 - f. A graphic scale should be added to the Area Map.
 - g. Notes should be added to the General Notes regarding refuse pick up and disposal, utility installation underground, snow removal and maintenance of site including the proposed basins.
 - h. The zone limit line should extend from the south side of the northern portion of Lot 4 down the centerline of Route 9 to the zone limit line that appears to be on the south boundary line of Lot 8.
 - i. A note indicating the net density of the project is to be added to the plan.
2. Sheet 2 should be amended as follows:
 - a. Dimension the front face of the buildings to be 10 ft. minimum from the parking lot.
 - b. All curb radii is to be dimensioned.
 - c. Bearing and distances for the boundary is to be provided.
 - d. The use of the existing one story building on New Lot 4.02 is to be indicated on the plan.
 - e. It would appear that the sanitary sewer easement should be extended across the remaining portion of Lot 4.
 - f. The location of sanitary sewers and water in route 9 should be shown on the plan.

F. Traffic Impact Analysis

Existing condition traffic volumes were conducted using automatic traffic recorders for a period of ten (10) days. The morning peak hour was found to be between 8:00 am & 9:00 am and the afternoon peak hour was found to be between 5:00 pm & 6:00 pm. The morning peak hour volumes was found to be 651 northbound and 490 southbound for a total volume of 1,141 while the afternoon peak volumes were 752 northbound and 701 southbound for a total volume of 1,453.

Trip generation for morning and afternoon peak hours for 80 age restricted apartments and 22 single family homes was performed and compared. The 22 single family homes generate more peak hour traffic than the 80 age restricted apartments. The applicant indicates that the zone permits 22 single family homes. How was this determination made? A yield map showing 22 conforming lots with areas for the basins and any buffers should be provided.

The report indicates that site access on to Route 9 will operate at a level of service "C" during the morning peak hour and a level of service "D" during the afternoon peak hours both of which are acceptable levels. Left turns onto the site from Route 9 will operate at a level of service "A" during both the morning and afternoon peak hours. Will the project have any impact on nearby Route 9 intersection? Will turning lanes and by pass lanes be provided along Route 9? Has the applicant met or received a determination from the NJDOT?

Re: BOA # 12-5416
Applicant: David Roman
Application: Use and Bulk Variances
Block 956, Lot 4
Fronting on: NJSH Route 9
Zone: HB & R-125
EE & L Project No. 12B4533-7R04

Page 5 of 5



The report concluded that the 80 age restricted apartments will generate less traffic than the permitted 22 single family units. In addition, the gap study conducted during peak hours indicates that substantial excess capacity will be available at the site driveway to process existing traffic movements.

G. Conditions and Recommendations

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. The applicant must apply for and receive preliminary and final major site plan approvals from the Board within a timely manner as determined by the Board, and be conditioned upon receipt of all applicable agency approvals including but not limited to, CAFRA. Should the proposal be changed or modified due to requirements of the aforementioned or other agencies, the Board may wish to void any variance approvals, and require that they be obtained again with the subdivision and site plan applications.
2. The Board should specify the maximum number of units to be allowed.
3. Should the Board waive the EIS for the use variance; an EIS should be submitted for the Site Plan and Subdivision.
4. The Board should set a maximum number of units approved subject to Site Plan approval.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

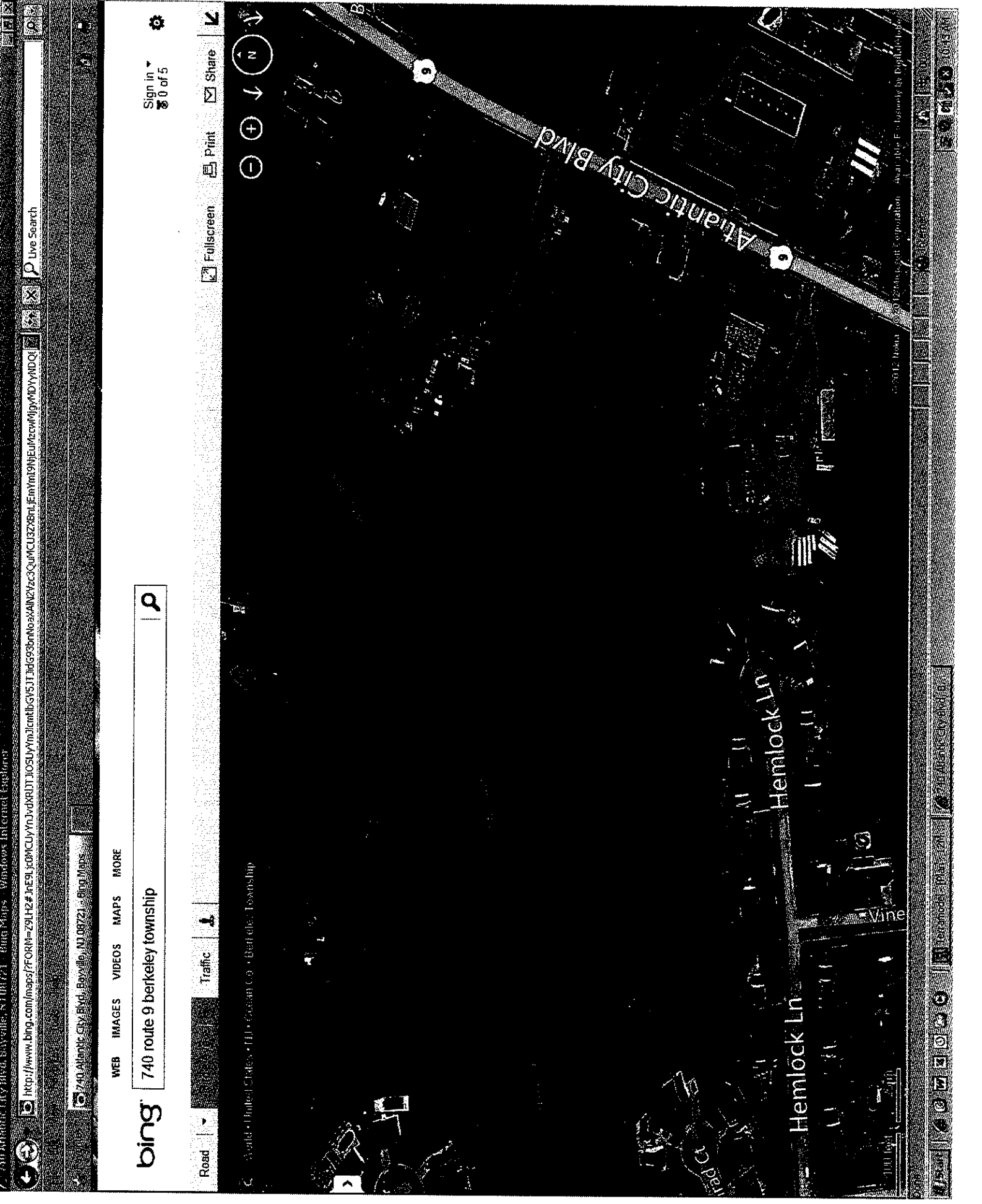
Should you have any questions or we can be of any further assistance on this matter, please do not hesitate to call our office.

Very truly yours,

John J. Mallon, PE
Zoning Board Engineer

PAG/JJM/jet

Cc: David Roman, Applicant
John Doyle, Esq., Applicant's Attorney
Ian Borden, P.E., PDS, Inc., Applicant's Engineer
Anna Wainwright, Board Planner
Alex Pavliv, Board Attorney
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Remington & Vernick Engineers
232 Kings Highway East
Haddonfield, NJ 08033
(856) 795-9595
(856) 795-1882 (fax)

Remington, Vernick
& Vena Engineers
9 Allen Street
Toms River, NJ 08753
(732) 286-9220
(732) 505-8416 (fax)

3 Jocarna Boulevard, Suite 300-400
Old Bridge, NJ 08857
(732) 955-8000
(732) 591-2815 (fax)

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Horseshoeville, NJ 08232
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(609) 645-7076 (fax)

4907 New Jersey Avenue
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(856) 303-1249 (fax)

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Secaucus, NJ 07094
(201) 624-2137
(201) 624-2136 (fax)

MEMO: Berkeley Township Zoning Board of Adjustment

FROM: Anna Wainright, PP, AICP. 
Zoning Board of Adjustment Planner

DATE: November 8, 2012

RE: Brower/Roman
PLANNER REVIEW
Density/Use/Bulk Variances
Block 956 Lot 4
Address: 730 Route 9
Zoning Districts: R-125 Residential Zone
Proposed Lot 4.02 HB – Highway Business
Plan Title: Use Variance Plans for “Riverbay Landings”, Block 956, Lot 4; Prepared By: William Stevens, P.E., P.P.; September 20, 2012 (2 sheets); Survey prepared by Richard S. Korecky, Jr., PLS, 8/30/12. Architectural Plans prepared by Dario Architecture, dated 9/24/12 (3 sheets).
Traffic Report prepared by McDonough & Rae Associates, Inc.
BOA #12-5416
Our File: 1506-Z-149

As requested, our office has reviewed the above named plans and submissions and offer the following comments and recommendations:

The Applicant has applied to the Board to obtain a use variance and any other variances required for construction of an 80 unit age-restricted multi-family development consisting of ten (10) two story residential structures, one 3,000 square foot storage building, 169 parking spaces, two stormwater basins and other associated improvements, on approximately 10.57 acres located within the R-125 Zone, along with the subdivision of 8,499 square feet for an existing single family dwelling located in the HB Zone. Multi-family dwellings are not permitted within the R-125 Zone, where approximately 36 single family dwellings would be permitted. The Applicant also requires a “d” density variance for 80 dwelling units where 36 would be permitted. The 10.77 acre site presently contains two single family dwellings located on two separated frontages on Route 9. The lot is predominately a forested property which slopes down toward the most northerly point.

It should be noted that the plans and the application differ on the direction the applicant is going for the granting of variances. The application compares the development to what is permitted in the HB Zone, and requests a variance from the conditional use of multi-family permitted along with 40% commercial uses, whereas the plans reference requests for variances using the R-MF multi-family zone standards.

The only portion of the lot which is located within the HB Zone is being subdivided off, and is to contain a pre-existing non-conforming single family dwelling. Therefore, the mixed use commercial and multifamily permitted in the HB Highway

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Business Zone would not apply. The remainder of the property is located in the R-125 Residential Zone. The Applicant should provide testimony regarding this conflict of information in their application, and clarify to the Board which standard they wish the Board to apply. The Board may decide to apply whatever standard they believe is more appropriate.

The Applicant has chosen to "bifurcate" the application requesting the use first, and all other variances, without providing all of the required information for site plan approvals. The applicant is permitted to apply in this manner; however, the Board may determine that they require additional details or information in order to make an informed decision. Should the Board determine that the uses, density, and other variances are appropriate, the applicant is required to return to the Board for site plan approvals, and any approvals which the Board may grant to the applicant should be conditioned upon a return to the Board with the site plan and subdivision application in a timely manner to be determined by the Board.

Use and Density "d" Variances:

The Applicant requires three different "d" variances. One for the proposed non-permitted multi-family use (d-1) in a zone which does not permit it; One for a density of 80 dwelling units where 36 are permitted; One for the subdivision creating a new lot to contain the existing non-conforming single family use in the HB Zone. All of the variances should be discussed separately and professional testimony must be provided to the Board regarding the "special reasons" as prescribed in the MLUL for the granting of "d" variances. "D" variances require an "enhanced" burden of proofs and it is the applicant's obligation to satisfy the Board that the "enhanced" burden is met on all three "d" variances. All "D" variances require five (5) affirmative votes. The burden of proof is on the applicant and the proofs required for the granting of a "d" variance carry a higher degree of satisfaction and also require an affirmative vote from five (5) of the voting members of the Board. It should be noted that, even though the applicant has provided a *site* plan for informational purposes, the site plan & subdivision is not before the Board at this time. However, the applicant appears to be requesting all of the associated "c" variances which are required for this proposal. Those variances depend on the standards that the Board determines are appropriate to be considered with this use.

Should the Board agree to consider other "c" variances with the application, the following criteria would apply.

- c(1) where (a) by reason of exceptional narrowness, shallowness or shape of a specific piece of property, or (b) by reason of exceptional topographic conditions or physical features uniquely affecting a specific piece of property, or (c) by reason of an extraordinary and exceptional situation uniquely affecting a specific piece of property or the structures lawfully existing thereon, the strict application of any regulation pursuant to article 8 of this act would result in peculiar and exceptional practical difficulties to, or exceptional and undue hardship upon, the developer of such property.
- c(2) where in an application or appeal relating to a specific piece of property the purpose of this act... would be advanced by a deviation from the zoning ordinance requirements and the benefits of the deviation would substantially outweigh any detriment...

And, for any variance, the Board must also be satisfied that the variances can be granted without substantial detriment to the public good or the Municipal Zoning Ordinance and/or Township Master Plan.

It should be noted that Berkeley Township recently adopted a new Master Plan and Zoning Map, which provided that the area would remain R-125 single family residential with a medium density requirement of one unit per 12,500 square feet of area. The Master Plan also indicated that the R-MF Zone was "restricted to existing multi-family developments in the Township with the exception of those that are located in a town center or corridor node." This area of the R-125 Zone is located adjacent to the CN-B corridor node, and is separated from the greatest portion of that zone by a forested wetlands corridor. However, all multi-family developments within the Town Center and corridor nodes, require a stringent review for amenities and landscaping, along with a mixed use commercial combination of uses. The applicant should be prepared to provide professional testimony with regard to reconciling this inconsistency with the Master Plan.

The following additional "c" variances appear to be required from the R-MF and "d" variances from the HB standards for multi-family uses:

1. **§35-96.4 2- R-MF Multi-family**

- (b) Driveways require a pavement width of at least forty (40) feet. There shall be not less than two (2) exit-entrance roads to each garden apartment project. The driveway widths do not comply and there is only one entrance/exit.
- (g) Garbage and refuse storage and collection areas shall be screened and located away from the fronts of buildings. All but one refuse area is in front of the buildings.
- (h) Storage areas in addition to areas within units must be provided at 200 cubic feet per unit, or 16,000 cubic feet. The applicant shows a "storage building" of 3,000 square feet, but does not indicate the use of the structure or compliance with this requirement.
- (i) Building offsets of 4 feet are not provided.
- (j) Each development shall provide a recreation area at a standard of one thousand square feet for each twelve units, none is provided.

2. **§ 35-106.2 b. (6) Conditional Uses. (Constitutes a "d" Variance)**

- (a) The site must contain an otherwise permitted nonresidential use, which shall constitute 40% of the total floor area on the site. No nonresidential uses are proposed.
- (e) Entrances to residential buildings shall be clearly accentuated by architectural features and provide direct access to plazas or courtyards as opposed to parking areas. The buildings front on the parking areas.
- (f) Individual units shall be accessed through common internal lobbies. The units are all accessed from the outside.
- (g) A pedestrian circulation plan shall be submitted designed to show pedestrian safe workable circulation throughout the site with direct access to Route 9. The plan does not provide for pedestrian connection to Route 9, nor sidewalks on Route 9.
- (k) Parking shall be no closer than twenty (20) feet to the residential building. Parking is ten (10) feet from the buildings.

The Applicant also requires a "d" variance for the creation of the residential proposed lot 4.02, and the following bulk variances:

§35-95/§35-106.2 Highway Business Zone

1. Minimum lot area of 8,499 SF, whereas 15,000 SF is required.
2. Minimum lot frontage of 43.38 FT, whereas 150 FT is required.
3. Minimum front setback of 35.67 FT, whereas 50 FT is required.
4. Minimum side setback of 7.95/21.65 FT, whereas 15/40 FT is required.

A. PROJECT OVERVIEW

The proposed project is located predominately within the R-125 Zone adjacent to a forested wetlands corridor to the northwest, and residential uses along the northerly boundary. To the southwest there are residential subdivisions, and there exists a mix of residential and commercial uses to the east along Route 9. The proposal is for 80 age-restricted one and two-bedroom apartments in 10 separate buildings, with 169 parking spaces, and a 3,000 square foot storage building. The applicant is proposing a 3.24 acre "preservation area" in the westerly corner of the property, which includes a 60 foot wide buffer to uses in the south. To the north on the property line with the forested wetlands, the applicant is proposing a 50'± setback to buildings, but only a 10 foot vegetated buffer. To the north adjacent to the existing residential uses, the applicant is proposing a 50' "buffer" area. The project contains two ponds which we assume will be part of the stormwater management of the site. The project has one entrance which tapers from 25' wide to two 20' one-way in and out access roads.

B. GENERAL REVIEW COMMENTS

1. The applicant must satisfy the Board that they have met the burden of proofs required for all of the requested variances.
2. The applicant indicates that the project will be for "age-restricted" occupancy. However, the site is designed with more parking than what is required, and generally, age-restricted uses are modified to allow for less parking due to the lesser need. Assuming that the "age-restriction" is 55 and older the Applicant should provide testimony in this regard and regarding what provisions in this application or the law that would require the continued "age restriction" stipulation.
3. The applicant should provide testimony regarding the limited provisions for recreation on the site. There should be additional recreational facilities added to the site.
4. The Applicant should provide testimony regarding the "management" of the site, such as how the property will be maintained, rented, how garbage will be picked up, how snow will be removed, and what safety and security measures will be provided.
5. The Applicant should provide testimony regarding the "preservation area" and whether or not there will be a conservation easement on those areas.
6. The Applicant should provide testimony regarding the single family access "easements" in the north of the property and whether or not it is their intention to grant formal easements to these existing homes. Easements should be added to the plans.

Page 5

7. The Applicant should provide testimony and descriptions of the submitted architectural plans. The plans should be corrected to include square footages, dimensions and total bedroom/unit counts.
8. The Applicant is proposing to remove 70% of the trees on the site, and has not provided any information about how this site will be landscaped and trees replaced. Testimony should be provided regarding compliance with the Township's Tree Removal ordinance and intentions to comply.
9. The Applicant will require review from all outside agencies including CAFRA. Testimony should be provided regarding compliance with CAFRA regulations, more specifically lot coverage, and disturbance within or around any wetlands buffers.
10. The Applicant should provide testimony regarding the submitted traffic impact report. We defer to the Board engineer for comments and recommendations on this item.

D. CONDITIONS AND RECOMMENDATIONS:

Should the Board determine that the relief requested should be granted, we recommend that the approval be conditioned upon the following:

1. Submission and approval of a Major Site Plan and Subdivision application provided within a timely manner determined by the Board.
2. Provisions for additional recreational facilities and pedestrian circulation plans which include access to Route 9.
3. Should the Board determine that the use is appropriate, the Board should also consider the density and maximum number of units appropriate.
4. The Applicant should clarify age-restricted "controls" and restrictions, and the Board may wish to make them a condition of the approval.

We reserve the right to request additional information, and/or plans should additional variances or concerns be indicated during the public hearing.

Should you have any questions or we can be of any further assistance on this matter, please don't hesitate to call our office at 732-286-9220.

GOD BLESS AMERICA

ARW:ktr

Cc: David Roman, Applicant
William Stevens, P.E., Applicant Engineer
Alex Pavliv, Board Attorney
Jack Mallon, P.E., Board Engineer